

**Town of North Smithfield Planning Board
Kendall Dean School, 83 Green Street
Thursday, November 21, 2013, 7:00 PM**

The Chair called the meeting to order at 7:08 pm.

1. Roll Call

Present: Mali Jones, Dean Naylor, Art Bassett, Gene Simone and Cynthia Roberts. Absent: Chairman Lucien Benoit, Kerri Tunnickliffe. Also present were Town Planner Robert Ericson and Town Solicitor James Lombardi III.

Vice-Chairman Dean Naylor moderated the meeting in the absence of Chairman Benoit.

2. Minutes of October 10, 2013

Mr. Simone made a motion to approve the minutes of October 10, 2013. Mr. Bassett seconded with all in favor.

3. Disclosure: This is the point where anyone can disclose potential conflicts related to matters before the Board. No one had comments on the disclosure.

4. Berthelette Major Subdivision: Discussion, vote or other actions on Final Plan

Owner/Application: Gerard & Christine M. Berthelette, 59 Fountain St,

**North Smithfield, RI Location: Mendon Road and Middle Street
Assessors Plat 3, Lot 286 Zoning: Urban Residential (RU-20)**

Mr. Ericson explained that the Preliminary Plan for this subdivision was approved with conditions in May 2011. At that time it was unknown when the plan would be returning to the Planning Board, who the Board members would be, or who the Planner might be. The Preliminary Plan was approved on the following conditions:

- 1. A sewer easement be drafted and accepted by the Town of North Smithfield to allow AP 3, Lots 170 and 71 access and ability to connect to a municipal sewer once constructed.**
- 2. At the time of Final Plan Approval, Lot 2 as shown on the plan titled: Preliminary Plan, Major Subdivision, Existing Conditions Plan for Gerard & Christine M. Berthelette, Assessor's Plat 3, Lot 286, North Smithfield, Rhode Island October, 2010 Scale: 1 inch equals 40 feet, Revised 11/17/10, 2/10/11 & 4/5/11, shall require access to accepted municipal sewers on Middle Street or Fountain Street. If such access is not available at time of final approval, an easement shall be created and provide through Lot 1 granting access to the Mendon Road sewer at the time of final approval.**

Atty Eric Brainsky appeared before the Planning Board to explain how the applicant has addressed the conditions of approval. Mr. Brainsky explained that the Final Plan was identical to the Preliminary Plan with the changes made to meet the conditions of approval. One of the conditions referenced the access the Town sewer. The

Berthelettes spoke with the sewer administrator. He determined that Lot 2 will be serviced by sewer from Fountain Street, using a grinder pump acceptable to the sewer commission. Lot 1 will be serviced by the strip of land that runs to Mendon Rd. A sewer easement will be recorded to allow AP 3, Lots 170 and 71 access and ability to connect to the municipal sewer.

Mr. Simone asked if the property will use wells for water and Mr. Brainsky answered affirmatively. There is no town water services available in that area.

Ms. Jones made a motion that the Planning Board approve the Major Subdivision Final Plan for Gerard and Christine M. Berthelette revised to 11/7/13 for Plat 3, Lot 286. Mr. Bassett seconded. Roll call was taken to approve subdivision: Yes: Mr. Bassett, Mr. Simone, Ms. Jones, Mr. Naylor and Ms. Roberts. Nay: none.

5. Zoning Ordinance amendments, Section 6.5: Fences, walls and hedges in residential districts. Discussion. Vote or other actions regarding consistency with the Comprehensive Plan. The Board may vote additional recommendations under local ordinance. The proposed amendment will allow more shrubs on lots, especially benefiting owners of small lots.

Michael Johnson, part-time zoning official, brought this ordinance to the attention of the Planning Department. The ordinance states that

hedges over 2.5 feet must be set back 25 feet from the front lot line. Mr. Johnson is suggesting the ordinance be changed to 3.5 feet in height and to remove the distance from the front lot line requirement. The line-of-site triangle would supercede the ordinance at street intersections.

Ms. Jones asked if the height requirement will also apply to the side and rear yards. Mr. Ericson explained that this only applies to front yards and is not an issue. In the case of an odd shaped lot, the front side of the lot is that to which the house faces.

Ms. Roberts asked why the height is restricted if it is not a line-of-sight problem.

Mr. Bassett wanted to know what Mr. Johnson had to enforce related to shrub height. Mr. Ericson explained that Mr. Johnson had to tell anyone with a shrub taller than 2.5 feet that they had to cut it to meet the requirements. Residents sometimes complain about neighbors with shrubs above the 2.5 foot limit.

Mr. Ericson stated that after the Board finds consistency with the Comprehensive Plan, the Board may recommend more lenient heights to allow for privacy on smaller lots.

Mr. Bassett asked about the median cut-through at CVS where the island includes shrubs. Because of traffic coming from Lowes,

driving is dangerous for people making a left-hand turn out of CVS and using the cut-through. There is no stop sign for traffic coming from Lowes or other buildings in Dowling Village and the pedestrian crossing sign does not slow people down. Mr. Ericson will check with the police to see the extent of the problem.

Mr. Naylor asked if it was inferred that from section 6.5.1 that side yard shrubbery is going to be 3.5 feet and if this is reasonable. Ms. Jones suggested a distinction between side yards that abut streets and side yards that abut other yards. Mr. Ericson suggested putting information on the website so that people know how to plant their yards.

Mr. Bassett made a motion that the Planning Board finds the proposed Zoning Ordinance Section 6.5 amendments consistent with the Comprehensive Plan. Mr. Simone seconded with all in favor.

Discussion ensued about what should be recommended to the Town Council for modifications to Zoning Ordinance Section 6.5. Ms. Roberts suggested the Board collect data related to the complaints due to heights of shrubbery. Mr. Ericson suggested Bobbi Moneghan study the Union Village area and document the existence of shrubbery not in compliance with Zoning Ordinance Section 6.5.

The Planning Board would like to meet before the second meeting in December of the Town Council, when they do the first reading, so that

they have compiled a recommendation in regard to changes to Zoning Ordinance Section 6.5. Mr. Ericson said the Town Council would only be doing a first reading then.

6. Option to preserve existing Comprehensive Plan review criteria: Statewide Planning has offered an option to have updated Comp Plans reviewed under 2011 criteria rather than yet-undetermined 2014 criteria. Discussion, vote or other action on electing the 2011 option.

Mr. Ericson explained that if the Town uses the 2011 criteria, the Comp Plan will be due by February 2015 and if we use the 2014 criteria it can be submitted after February 2015.

Ms. Jones suggested that the Planning Board wait until they receive changes from the state for 2014 Comp Plan criteria. Ms. Roberts asked if before that time, someone could compare the two years' criteria and explain it to the Board.

The Planning Board will need to make a decision in time for the February 28, 2014 deadline to request the 2011 criteria. The Board decided to discuss this again when they have received changes from the state.

7. Zoning Ordinance amendments, Section 5.7: Ground-mounted solar photovoltaic installations. Discussion, vote or other actions regarding consistency with the Comprehensive Plan and submission

to the Town Council. The Board may vote additional recommendations under local ordinance. The proposed amendment will establish site review standards for “solar farm” installations.

Mr. Ericson explained that the ordinance refers to farms over 250 kilowatt direct current (kW DC). When writing this ordinance, Mr. Ericson took the approved Burrillville version of this ordinance and changed it to read North Smithfield. He also replaced one word in section f on the third page; the word shaded was changed to buffered.

Ms. Jones asked how much land is involved when a solar photovoltaic is producing 250 kW. Mr. Ericson replied that 15-20 acres are needed to generate 2 megawatts. Ms. Roberts asked if this is proactive or if people are proposing this already. Mr. Ericson said that people are already proposing this use, and that a preliminary question they have is about whether the Town has an ordinance. This is in the site review category

Mr. Bassett asked about (section D7) whether the proof of liability insurance. Mr. Ericson stated that the insurance is related to the size and that the Town would make that decision. Mr. Bassett asked if National Grid has to approve the installation of solar photovoltaic and the answer was yes.

Mr. Bassett made a motion that the Planning Board refer Zoning

Ordinance amendments, Section 5.7 ground-mounted solar photovoltaic, to the Town Council. Mr. Simone seconded with all in favor.

8. Land Development & Subdivision Regulations: Review and discussion of application and review process related to proposed changes in Articles VII-X and Appendix A (Forms). No votes will be taken before a public hearing in the first quarter of 2014.

Mr. Ericson began by introducing the state law RIGL 45-23-51 Local regulations – Authority to create and administer regulations. The Town of North Smithfield has done this and it is in the Town Charter. Section 45-23-52 Local regulations-procedure for adoption and amendment gives the Planning Board complete authority to adopt their own regulations and then they become the interpreter of the regulations until someone appeals to the Zoning Board of Review or a higher court. The Board also decides how these are enforced.

Mr. Naylor brought up the point that Mr. Nadeau, the Town's previous solicitor, said the Planning Board had the right to interpret the regulations and set precedents, and that goes on a case-by-case basis. Mr. Naylor said that the Planning Board has the right of interpretation. Does that corner Planning Board as to setting precedents or does case-by-case basis go still apply here.

Mr. Ericson gave an example of the 600 foot cul-de-sac limit in North

Smithfield. Other towns have different length and the interpretation is as easy as measuring the length. In the case of the Blunders, the applicant requested 2700 feet but did not apply for a waiver. There was no vote taken by the Planning Board, yet it was assumed that the waiver was granted. There should be good, sound reasons for waivers from the regulations to avoid setting precedents.

Section 45-23-53 Local regulations-Public hearing and notice requirements.

Mr. Ericson explained sections 9-8 through 9-11 of the Land Development and Subdivision Regulations. Ms. Jones stated that she is comparing the 2003 and the 2006 Land Development and Subdivision Regulations.

9. Planning update: Summary of new developments with Dowling Village, Walgreens, residential subdivisions, planned bridge work, applications in process, BRV Heritage Corridor projects, Public Facilities Advisory Task Force, Zoning Board of Review, related meetings, and meetings schedule.

Section 17 of the Zoning Ordinance has been approved by the Town Council.

Mr. Ericson said that a Planning Board member, as a private citizen, entered testimony in the Section 17 public hearing that 90% of the

slopes in town are at least 15%. From the soil maps, it can be determined that 38% of the town is at least 8% slope. That means only about 25% of the Town has a slope greater than 15%.

There has been an initial meeting of the Public Facilities Advisory Task Force with RGB concerning rehabbing and converting several buildings, including Kendall Dean to administrative use for the Town and School Departments. Mr. Ericson is going to plan out the space for Planning on the bottom floor.

10. Adjournment

Mr. Simone made a motion to adjourn at 8:33 pm. Mr. Bassett seconded with all in favor. Next Planning Board meeting will be December 5, 2013.

Submitted by Bobbi Moneghan, November 27, 2013.